

Remarks

The last office action has been carefully considered.

Claims 2, 24, and 30 have been amended herein and are now believed to fully comply with 35 U.S.C. 112. It is therefore respectfully requested that this rejection be withdrawn.

In the last office action, the Examiner has maintained his rejection of claims 2, 24, and 30 under 35 U.S.C. 103 stating that it would have been obvious for one skilled in the art to consider the security alarm system of Sanders et al. in view of the background section of applicant's specification as stating it is desired in the toy vehicle business to replicate as much of the real vehicle as possible.

Applicant respectfully traverses this rejection. The Examiner maintains his rejection without addressing applicant's comments in the last office action that:

1. Sanders et al. does not teach nor suggest replicating any of its parts for use in a toy.
2. The cited portions of applicant's present specification states only in general terms that toy designers seek to provide realism in toy vehicles by replicating sound, function and appearance of real life versions but fails to provide the specifics of

the real life features and makes no mention of replicating real life security alarm devices for use with toys which comes from the rest of the present application which describes the presently claimed invention.

3. Sanders et al. describes a more complex alarm, not the standard alarm and as such is an unlikely choice for use in the toy vehicle industry. Thus, one skilled in the art would not have considered the security alarm of Sanders et al. and would have turned away from considering the use of such a complex alarm system.

As was held in a leading case:

"The PTO's attempt to show a suggestion of the claimed invention 'consists of taking statements wholly out of context and giving them meanings they would not have had to one skilled in the art having no knowledge of appellant's invention, or to anyone else who can read the specification with understanding.'" In re Wright, 866 F.2d 422 (Fed. Cir. 1989).

Accordingly, one skilled in the art would not have considered the security alarm system of Sanders et al. for a toy vehicle for the aforementioned reasons.

Further, applicant had submitted a Declaration of Commercial Success attesting to the sales of nearly two million units of this toy vehicle. The Examiner did not comment on this declaration submission to establish non-obviousness. A copy of this declaration is again enclosed.

For the aforementioned reasons, it is respectfully requested that this rejection be withdrawn and the claims remaining in the present application be passed to issue.

Respectfully submitted,



Date: September 1, 2005

Richard B. Klar  
Reg. No. 31,385  
Law Office of Richard B. Klar  
28 East Old Country Road  
Hicksville, NY 11801  
(516) 827-0100